

AMENDED IN ASSEMBLY SEPTEMBER 3, 2013

AMENDED IN ASSEMBLY AUGUST 5, 2013

AMENDED IN SENATE MAY 24, 2013

AMENDED IN SENATE MAY 6, 2013

AMENDED IN SENATE APRIL 23, 2013

AMENDED IN SENATE APRIL 1, 2013

SENATE BILL

No. 448

Introduced by Senator Leno

(Coauthor: Assembly Member Nazarian)

February 21, 2013

An act to add ~~Sections 25351 and 25356.5 to~~ *Section 25351 to, and to add and repeal Section 25356.5 of*, the Public Resources Code, relating to energy.

LEGISLATIVE COUNSEL'S DIGEST

SB 448, as amended, Leno. Energy: petroleum supply and pricing.

Existing law establishes the State Energy Resources Conservation and Development Commission in the Natural Resources Agency, and specifies the powers and duties of the commission with respect to energy resources in the state. Under existing law, various provisions regulate petroleum supply and pricing. Existing law requires the commission to obtain and analyze monthly production reports prepared by the State Oil and Gas Supervisor under a specific provision. Existing law authorizes the State Lands Commission to enter into oil and gas leases for the extraction and removal of oil and gas deposits on state lands. Existing law requires the leases to include a royalty provision.

This bill would, *until January 1, 2018*, require the State Energy Resources Conservation and Development Commission, or the commission, upon appropriation by the Legislature of moneys generated by the collection of royalty payments from the oil and gas leases, to identify data currently collected or developed by the commission and to establish a methodology to analyze whether fuel price manipulation has occurred or is occurring. ~~The bill would require the commission to notify the appropriate state or federal agencies if a probable market manipulation has occurred or is occurring.~~ *The bill would require the commission to establish a Motor Vehicle Fuel Market Advisory Committee, as specified, to review specific data and provide ongoing comments, insight, and recommendations about fuel market behavior and transactions related to potential market manipulation and methods to deter those activities.* The bill would require the commission, in consultation with the State Air Resources Board and other relevant state agencies, to include in its integrated energy policy report a *one-time* report on further legislative recommendations to limit the amount of price volatility and comparative price increase in the California fuel market.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 25351 is added to the Public Resources
2 Code, to read:
3 25351. The Legislature finds and declares all of the following:
4 (a) California is in the process of creating investments in, and
5 deployment of, lower carbon and more sustainable fuel options
6 for consumers.
7 (b) California's transition to a lower carbon and lower cost
8 transportation fuel mix can be threatened by illegal actions that
9 manipulate prices and make it difficult to understand the real
10 impact of new standards and regulations.
11 (c) It is the intent of the Legislature to implement policies that
12 ~~protect~~ *diversify the state's motor vehicle fuel mix and reduce its*
13 *carbon intensity while protecting* consumers against market
14 manipulation in the wholesale markets for finished-~~gas~~ gasoline
15 and diesel fuel and their refining feedstocks.

(d) *Fully detecting and deterring illegal market price manipulation for motor vehicle fuels is a complex effort that may be beyond the existing data collection and analysis capabilities of the state.*

~~(d)~~

(e) *It is the intent of the Legislature to use existing resources at the State Energy Resources Conservation and Development Commission and develop additional expertise to ~~prevent~~ identify circumstances and segments of the transportation fuels sector vulnerable to market manipulation and recommend actions to deter those activities using existing data, while also understanding the limitations of the data that the state already collects.*

~~(e)~~

(f) *It is the intent of the Legislature that the authority under this act be complementary to the authority of other state and federal agencies.*

~~(f)~~

(g) *It is the intent of the Legislature that the State Energy Resources Conservation and Development Commission work and communicate with other state and federal agencies to identify activities that may indicate ~~market manipulation and investigate those activities in markets for wholesale finished gasoline and diesel fuels and their refining feedstocks.~~*

SEC. 2. Section 25356.5 is added to the Public Resources Code, to read:

25356.5. (a) In addition to the requirements of Section 25356, and in consultation with relevant state and federal agencies, the commission shall do all of the following:

(1) Identify data currently collected or developed by the commission that is important to determine whether improper fuel price manipulation has occurred or is occurring. The data may include all of the following:

(A) Individual fuel producer data and importer and bulk trader data, including all of the following:

(i) Production or throughput data.

(ii) Emission data or operational data.

(iii) Sales, storage, and transfer volumes.

(iv) Price.

(B) Observed and forecasted wholesale market prices.

~~(2) Establish an analytical methodology for use in evaluating data collected by the commission to inform whether fuel price manipulation has occurred or is occurring. The methodology may, at the discretion of the commission, be targeted to analyzing data on transactions and market conditions most likely connected with fuel pricing manipulation, and may include, but shall not be limited to, both of the following:~~

~~(A) Producer, importer, and bulk trader level analysis.~~

~~(B) Marketwide analysis, comparing real time prices to expected prices based on published forecasts or modeling output.~~

~~(3)~~

~~(2) Analyze, in an ongoing manner, the data under paragraph (1) that is in the possession of the commission and investigate for suspected identify transportation fuel market segments and circumstances vulnerable to fuel price manipulation in at both of the following levels:~~

~~(A) Individual business level.~~

~~(B) Marketwide producer level, taking into account the actions of multiple producers.~~

~~(4)~~

~~(3) Identify data that is not in the possession of the commission and is considered important to determine whether fuel pricing manipulation has occurred or is occurring. The commission shall furnish a list of the data to the Legislature upon request.~~

~~(b) (1) The commission shall establish a Motor Vehicle Fuel Market Advisory Committee to review the data gathered and analyzed pursuant to subdivision (a) and to provide ongoing comments, insight, and recommendations about fuel market behavior and transactions related to potential market manipulation and methods to deter those activities.~~

~~(2) The committee, pursuant to paragraph (1), shall include at least five members with relevant professional or academic expertise, to the extent feasible, in accordance with the following:~~

~~(A) A motor vehicle fuel market analyst.~~

~~(B) A representative from the wholesale gasoline and diesel fuel industry.~~

~~(C) A representative from the retail gasoline and diesel fuel industry.~~

~~(D) A representative from the alternative fuel industry.~~

1 (E) A representative from an environmental, public interest, or
2 consumer protection organization.

3 ~~(b)~~

4 (c) (1) The commission, in consultation with the State Air
5 Resources Board and other relevant state agencies, shall include
6 ~~in~~ *as part of the first feasible* integrated energy policy report
7 pursuant to Section 25302 *that is made following an appropriation*
8 *pursuant to subdivision (e) of this section*, a one-time report on
9 further legislative recommendations to limit the amount of price
10 volatility and comparative price increase in the California fuel
11 market. The report shall include an evaluation of ~~strategies for~~
12 ~~doing~~ all of the following *strategies*:

13 ~~(1)~~

14 (A) Increasing storage of fuels produced in the state.

15 ~~(2)~~

16 (B) Leveraging the state's purchasing power related to the state's
17 *motor vehicle* fleet.

18 ~~(3)~~

19 (C) Increasing timely imports of *motor vehicle* fuels *that meet*
20 *existing fuel specifications, as established by the State Air*
21 *Resources Board*, during emergency conditions and rapid price
22 volatility.

23 ~~(4)~~

24 (D) Coordinating the timing of maintenance and shutdown
25 activities at in-state fuel production facilities.

26 (E) *Identifying circumstances and segments of markets for*
27 *gasoline and diesel fuels and their refining feedstocks that are*
28 *vulnerable to price changes and potential market manipulation.*

29 (2) *The strategies evaluated pursuant to paragraph (1) shall*
30 *not do any of the following:*

31 (A) *Be outside of the state's jurisdiction.*

32 (B) *Cause backsliding or noncompliance with applicable federal,*
33 *state, or local laws or regulations, including state air and water*
34 *quality requirements, and other requirements for protecting public*
35 *health or the environment.*

36 (C) *Disproportionately impact disadvantaged communities.*

37 (3) *The report pursuant to paragraph (1) shall also include*
38 *comments, insights, and recommendations from the Motor Vehicle*
39 *Fuel Market Advisory Committee.*

40 ~~(e)~~

(d) For purposes of this section, “fuel” means finished gasoline and diesel and their refining feedstocks derived from petroleum.

~~(d)~~

(e) The commission shall implement this section *only* upon appropriation by the Legislature of moneys generated by the collection of royalty payments from oil and gas leases entered into pursuant to Article 2 (commencing with Section 6826) of Chapter 3 of Part 2 of Division 6.

~~(e) (1) Upon collection of the data and completion of the analyses required under this section, if the data indicates that a probable market manipulation has occurred or is occurring, the commission shall notify the appropriate state or federal agencies of the probable market manipulation.~~

~~(2)~~

(f) Nothing in this section shall require the commission to ~~make final findings or determinations that market manipulation has occurred or is occurring.~~ *do either of the following:*

(1) Make final findings or determinations that market manipulation has occurred or is occurring.

(2) Release or disclose information deemed to be confidential under the Petroleum Industry Information Reporting Act of 1980.

(g) Nothing in this section shall prevent the commission from reporting any information to state or federal agencies pursuant to existing law.

(h) *This section shall remain in effect only until January 1, 2018, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2018, deletes or extends that date.*